

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Ms. Gay P. Kent
General Motors North America
Director, Product Investigations
Mail Code 480-111-E18
30200 Mound Road
Warren, MI 48090-9010

MAY 18 2005

Ms. Iwona Niec Villaire
Federal Mogul Corporation
Senior Counsel
26555 Northwestern Highway
Southfield, MI 48034

Re: Confidentiality Determination on Request EA04-035

Dear Ms. Kent and Ms. Villaire:

This is in response to your letters to Ms. Jacqueline Glassman dated March 23, 2005 and March 21, 2005 requesting confidential treatment for materials submitted by General Motors North America ("GM") and Federal Mogul Corporation ("FD"), and enclosed with the letters. The letters and enclosed materials were submitted by GM in response to the National Highway Traffic Safety Administration's information request of January 28, 2005, regarding alleged malfunction or failure of the front turn signals on 2003-2005 Model Year Saturn Ion Coupe vehicles.

Both GM and FD assert that the information at issue is considered by GM and FD to be confidential and proprietary information available only to authorized personnel and otherwise not available to the public.

The materials are contained in two CD disks identified as "GM Confidential EA04-035 GM 664A Attachment 2" and "Federal Mogul Confidential EA-035 GM 664A Attachment 3" which GM and FD respectively state contain trade secrets, disclosure of which would cause substantial competitive harm. You both further state in your letters that the information can be used by competitors to identify quality and performance problems or differences, thereby enabling them to improve their own products, without the expenditures associated with the evaluation of these products.

Because this information was not submitted voluntarily, I have reviewed your submissions under the competitive harm standard set forth in *National Parks & Conservation Ass'n v. Morton*, 498 F.2d 765 (D.C. Cir. 1974).

I will first address GM's request. I have decided to grant your request in part and to deny it in part.

I have examined the materials for which GM seeks confidential treatment. The material at Q11 includes component and test specifications, test results and part drawings. I am granting confidential treatment for this material in its entirety. The material at pages 1-17 of the testing report file under Q12 includes compliance test results conducted to the requirements of Federal Motor Vehicle Safety Standard ("FMVSS") No. 108. Your request is denied insofar as the material relates to mandatory testing requirements under FMVSS No. 108. On the other hand, I am granting confidential treatment to pages 13-14, 15 and 17. These documents relate to additional testing above and beyond the requirements of FMVSS No. 108. The material at Q13 includes quality analyses, root cause analyses, diagrams, investigation information, warranty data, material test results, and corrective actions. Confidential treatment is granted for this material, except for the file labeled "IPTV data-claims.xls" which appears to be a tabulation of warranty data. This warranty chart data is not stamped confidential as required by 49 CFR Part 512, and GM has not established that its release would be likely to cause the company to suffer competitive harm.

In accordance with your request, this grant of partial confidentiality will remain in effect indefinitely. Please be reminded, however, that this grant of confidential treatment is subject to certain conditions. The information may be disclosed under 49 CFR § 512.22 based upon newly discovered or changed facts. Also, you must inform the agency of any changed circumstances that may affect the protection of the information. 49 CFR § 512.10. If necessary, you will be notified prior to the release of any information under the procedures established by our regulations. 49 CFR § 512.22(h).

GM may request reconsideration pursuant to the requirements set forth in 49 CFR § 512.19. Any request for such reconsideration must be submitted within 20 working days after the receipt of this letter, and should show the particular competitive harm to your company from the disclosure of the information for which confidentiality has been denied and contain any legal arguments and citations upon which you rely. 49 CFR § 512.8. If no written request is submitted pursuant to 49 CFR § 512.19 within the required period of time, your submitted information will be placed in the public file.

I now turn to FD's request for confidential treatment. The disk labeled "Federal Mogul Confidential" contains testing methodology and design data in response to Q11 and Q12. I have examined the FD material on the disk at Q11 and Q12. FD's request is granted. The information was developed at considerable cost to FD, and if revealed would enable FD's competitors to analyze FD's safety, engineering standards and product evaluation methods to their own advantage, without the expenditures associated with conducting these evaluations independently.

Notwithstanding this grant of confidential treatment to FD, the information may be disclosed under the various provisions set forth in 49 U.S.C. § 30167 and 49 C.F.R. Part 512. The information may be disclosed under 49 CFR § 512.22 based upon newly discovered or changed facts, and you must inform the agency of any changed circumstances that may affect the protection of the information. 49 CFR § 512.10. You will be notified prior to the release of any information under the procedures established by our regulations. 49 CFR § 512.22(b).

Sincerely,

Original Signed By

Otto G. Matheke, III
Senior Attorney

